



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 49

[EPA-R09-OAR-2013-0009; FRL-9901-28-Region9]

Approval of Air Quality Implementation Plans; Navajo Nation;

Regional Haze Requirements for Navajo Generating Station;

Extension of Public Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; notice of extended comment period.

SUMMARY: On February 5, 2013, EPA proposed a Best Available Retrofit Technology (BART) determination for oxides of nitrogen (NO_x) for the Navajo Generating Station (NGS), located on the Navajo Nation, and provided a three-month period to accept public comments that was scheduled to close on May 6, 2013. At the request of interested stakeholders, EPA extended the comment period on two occasions, first on March 19, 2013, and again on July 9, 2013. The comment period was scheduled to close October 4, 2013. Additionally, on June 19, 2013, EPA announced our intention to hold five public hearings to accept written and oral comment on our proposed BART determination for NGS. On July 26, 2013, a group of stakeholders, known as the Technical Work Group (TWG), submitted its recommendation for an additional BART Alternative to EPA for consideration (TWG Alternative). EPA is in the process of evaluating this alternative. Because EPA has

not yet announced the schedule for the public hearings, and because EPA is still evaluating the TWG Alternative and may supplement our February 5, 2013 proposal, EPA is extending the comment period an additional three months. EPA intends to hold the public hearings prior to the close of this extended comment period and to announce the schedule shortly.

DATES: Comments on the proposed rulemaking for NGS must be postmarked no later than January 6, 2014.

ADDRESSES: Submit comments, identified by docket number EPA-R09-OAR-2013-0009, by one of the following methods:

(1) Federal eRulemaking Portal: www.regulations.gov. Follow the on-line instructions.

(2) E-mail: r9ngsbart@epa.gov.

(3) Mail or deliver: Anita Lee (Air-2), U.S. Environmental Protection Agency Region 9, 75 Hawthorne Street, San Francisco, CA 94105-3901.

For more detailed instructions concerning how to submit comments on this proposed rule, and for more information on our proposed rule, please see the notice of proposed rulemaking, published in the Federal Register on February 5, 2013 (78 FR 8274).

Instructions: All comments will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information

provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through www.regulations.gov or e-mail. www.regulations.gov is an "anonymous access" system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Hearings: EPA intends to schedule five public hearings to accept oral and written comments on the proposed rulemaking. EPA intends to hold the public hearings at locations on the Navajo Nation and the Hopi Tribe, as well as in Page, Phoenix, and Tucson, Arizona. EPA will provide notice and additional details related to the hearings in the Federal Register, on our website, and in the docket for this proposed rulemaking.

Docket: The index to the docket for this action is available electronically at www.regulations.gov and in hard copy at EPA Region 9, 75 Hawthorne Street, San Francisco, California. While documents in the docket are listed in the index, some

information may be publicly available only at EPA Region 9 (e.g., maps, voluminous reports, copyrighted material), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Anita Lee, EPA Region 9, (415) 972-3958, r9ngsbart@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, "we", "us", and "our" refer to EPA.

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I. Background

NGS is a coal-fired power plant located on the Navajo Nation Indian Reservation, just east of Page, Arizona, approximately 135 miles north of Flagstaff, Arizona. Emissions of NO_x from NGS affect visibility at 11 National Parks and Wilderness Areas that are designated as Class I federal areas (Class I areas), mandated by Congress to receive heightened protection. NGS is subject to the BART requirement of the CAA and the Regional Haze Rule (RHR) based on its age and its effects on visibility in Class I areas.

On February 5, 2013, EPA proposed a BART determination to require NGS to achieve a nearly 80 percent reduction of its current overall NO_x emission rate. EPA also proposed an alternative to BART that would provide flexibility to NGS in the schedule for the installation of new post-combustion control equipment. As discussed in more detail in our proposed rulemaking, EPA proposed to exercise its authority and discretion under section 301(d)(4) of the CAA (42 U.S.C. § 7601(d)(4)), and the Tribal Authority Rule (40 CFR 49.11(a)), to credit NGS for its early and voluntary installation of new combustion controls and to propose an extended timeframe for NGS for alternative measures to BART under the RHR.

In recognition that there may be other approaches that could result in better visibility benefits than BART, as well as the importance of NGS to the Navajo Nation, Hopi Tribe, the Gila River Indian Community, and numerous other tribes located in Arizona, EPA also outlined a framework for evaluating other BART alternatives ("better than BART" alternatives) that provide greater emission reductions than EPA's proposed BART alternative in exchange for greater flexibility.

EPA encouraged a robust public discussion of our proposed BART determination and alternative, as well as other possible alternatives, and recognized the potential need for a

supplemental proposal if approaches developed by other parties are identified as meeting the requirements of the CAA.

EPA received requests for a 90-day extension of the public comment period from the Navajo Nation, the Gila River Indian Community (Gila River, or the Community), Salt River Project Agricultural Improvement and Power District (SRP), and the Central Arizona Water Conservation District (CAWCD), in order to allow stakeholders time to develop alternatives to BART for EPA's consideration. On March 19, 2013, EPA extended the close of the public comment period to August 5, 2013 (78 FR 16825).

On June 10, 2013, EPA signed a notice, published on June 19, 2013, of our intent to hold five public hearings throughout the state of Arizona (78 FR 36716). EPA intends to hold hearings at one location each on reservation lands of the Navajo Nation and Hopi Tribe, and in Page, Phoenix, and Tucson, Arizona.

On June 20, 2013, SRP submitted a letter, on behalf of six stakeholders, requesting another extension of the comment period for NGS. On July 9, 2013, EPA extended the close of the public comment period to October 4, 2013 (78 FR 41012).

On July 26, 2013, a group of stakeholders known as the Technical Work Group (TWG) and consisting of the CAWCD, the Environmental Defense Fund (EDF), Gila River, Navajo Nation, SRP, on behalf of itself and the other non-federal Participants, Interior, and Western Resource Advocates, submitted a document

to EPA memorializing a multi-party agreement (the TWG Agreement).¹ The TWG Alternative to BART was included as Appendix B to the TWG Agreement. EPA is currently evaluating the TWG Alternative to determine if it is consistent with the RHR and the framework for "better than BART" Alternatives put forth in our February 5, 2013 proposed rulemaking.

Because EPA has not yet scheduled the public hearings for NGS and because we are still evaluating the TWG Alternative, EPA is extending the close of the comment period to accept written and oral comment on our proposed rulemaking for NGS.

II. Today's Action

In today's action, EPA is extending the close of the comment period for our proposed rulemaking for NGS by three months, to January 6, 2014. EPA intends to announce the schedule for public hearings in a forthcoming notice in the Federal Register.

List of Subjects in 40 CFR Part 49

Environmental protection, Air pollution control, Indians, Intergovernmental relations, Nitrogen Dioxide.

¹ See "Technical Work Group Agreement Related to Navajo Generating Station (NGS)" dated July 25, 2013, and submitted to EPA on July 26, 2013, in the docket for this proposed rulemaking at EPA-R09-OAR-2013-0009-0122.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: September 16, 2013. Elizabeth Adams,

Acting Air Division Director, Region 9.

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09/25/2013]